

## COMMITTEE ON LANDS AND BUILDINGS

**May 2, 2005**

**6:15 PM**

Chairman Thibault called the meeting to order.

The Clerk called the roll.

Present: Aldermen Thibault, Roy, Osborne, Porter

Absent: Alderman Gatsas

Messrs.: T. Bowen, R. Beaurivage, S. Tellier, T. Arnold, D. Beauchesne

Deputy City Clerk Johnson stated we would note that Alderman Gatsas had a conflicting appointment in Nashua this evening so he won't be able to attend the meeting.

Chairman Thibault addressed Item 3 of the agenda:

Communication from Edward F. Wojnilowicz, Parks, Recreation & Cemetery Department, requesting approval for a PSNH easement for access to the Derryfield Country Club.

On motion of Alderman Porter, duly seconded by Alderman Roy it was voted to approve the PSNH electrical easement.

Chairman Thibault addressed Item 4 of the agenda:

Communication from Frank Thomas, Public Works Director, requesting to purchase property for pedestrian access across Tax Map 274, Lot 6, which is between South Commercial Street and South Bedford Street.

On motion of Alderman Roy, duly seconded by Alderman Osborne it was voted to approve the request to purchase property for a pedestrian access.

Chairman Thibault addressed Item 5 of the agenda:

Communication from Robert Beaurivage, Manchester Water Works Assistant Director, requesting approval of a lease agreement for a communications tower site off of Chester Road in Auburn, NH.

Tom Bowen, Water Works Director, stated for the past three or four months we have had preliminary discussions with National Grid Communications over a couple of sites within the Town of Auburn to locate a cell tower on Water Works property. At the present time there are no cell communication towers in the town at all and there is very poor cell communication in that area. Even our own employees who have cell phones, our emergency personnel and so forth, have difficulty and we have tried two or three different varieties over the years and we are still having difficulty. We didn't initiate this. This was initiated by one of the national companies that locate towers. They have been surveying the area. They actually came in to the Board and made a presentation on an alternate site. We had submitted that to the Board and a week before the meeting we pulled it because things progressed and their design progressed. At this time they are looking at a site that is off of Bunker Hill Road in the Town of Auburn near Auburn Village. We have negotiated the terms of the lease agreement so that they are almost identical with a previously approved lease agreement with Verizon, which was approved by this Board and the Water Board in 1998. The terms of the agreement, both financial and duration, are very comparable to the previously negotiated and approved lease. We have forwarded copies of this document to the Solicitor's Office and it is my understanding that they are looking at the...not necessarily the terms but the wording and the language to make sure that the City is adequately protected but here are indemnifications by the communications people indemnifying the City from any liability similar to other previously approved agreements.

Alderman Porter asked are you liable for real estate taxes in the Town of Auburn for that 10,000 square feet.

Mr. Bowen answered there is a term in the agreement that makes them responsible for taxes, incrementally increased taxes, for their facilities.

Alderman Porter asked will they get the bill or will Manchester Water Works.

Mr. Bowen answered I believe they will get the bill directly.

Alderman Porter asked so it is a net lease of \$1,600 a month and no maintenance.

Mr. Bowen answered yes. There is no maintenance to speak of. It is going to be on top of an existing fire road that crosses the property so there won't be a large timber type or anything other than on the parcel.

Alderman Porter asked just for my own curiosity will you let me know what the taxes would be on that when the time comes.

Mr. Bowen answered absolutely.

Alderman Osborne asked, Mr. Arnold, do you have anything on this as far as the lease. Is the City held harmless, so on and so forth?

Deputy Solicitor Arnold answered I don't at this time. I, quite frankly, am not aware if this is in the office or not. It may have been assigned to someone else.

Alderman Osborne asked is this something we should vote on this evening or table it until we get that.

Deputy City Clerk Johnson answered you could do it subject to the approval of the City Solicitor.

On motion of Alderman Osborne, duly seconded by Alderman Roy it was voted to approve the lease agreement between Manchester Water Works and National Grid Communications for a communications tower site subject to the review and approval of the City Solicitor.

Chairman Thibault addressed Item 6 of the agenda:

Communication from Robert Beaurivage, Manchester Water Works Assistant Director, requesting approval to purchase 8.58 acres of land located on Kimball Drive in Hooksett, NH for a future treatment facility site at a negotiated sale price of \$600,000.

Alderman Roy asked Bob can you give us some background on this purchase –the timeframe and I believe your Commissioners have approved it.

Robert Beaurivage, Water Works, stated the Board of Water Commissioners approved this at their April 20 meeting. It is an 8.58 acre parcel of land. There are approximately six and a half acres on the West Side of Kimball Drive in Hooksett and then there is another two acres that are located on the Merrimack River. The purpose of acquiring this property again is to construct a future water treatment plant. We are looking at somewhere in the next five to ten years we would construct a second treatment facility on the river and the purpose of that facility would be to augment the existing treatment plant on Lake Massabesic. We have been looking for some time. This particular parcel is very desirable because of its location to our existing water mains. It has very good access off of the highway and off of Kimball Drive. It is commercially zoned, obviously riverfront property. Tom Arnold did assist us in preparing the purchase and sale agreement. That was put together very recently. We have a couple of appraisals that were

done. One was done by Mr. Brooks who represented the Palmisano family who owns this property. He had a sales price of approximately \$855,000. John Crafts who did the appraisal for the Water Works had an estimated value of \$400,000. We arrived at a negotiated price of about \$600,000. That is what is before you this evening, that value for that piece of land.

Alderman Roy asked the number of \$855,000 was that a sales opinion, a market opinion or a licensed appraiser.

Mr. Beaurivage answered that was a licensed appraiser.

Alderman Roy asked and you have had access to read that and review it.

Mr. Beaurivage answered yes we have.

On motion of Alderman Roy, duly seconded by Alderman Osborne it was voted to approve the request from the Water Works Department to purchase 8.58 acres of land on Kimball Drive in Hooksett, NH at a negotiated price of \$600,000 for a future treatment facility.

Chairman Thibault addressed Item 7 of the agenda:

Discussion of disposition of property on West Haven Road (Tax Map 922, Lot 39-A).

Deputy City Clerk Johnson stated I placed this item on the agenda because there was an action taken by the Committee previously and forwarded to the Board and the Board actually adopted an ordinance to dispose of this parcel of land to a Dennis and Diane Traynor and Harold Bradley, who were owners of record of abutting property. There was a subdivision that was occurring on the parcel in order to split it up between the two abutters. As it turns out, Mr. Bradley has been deceased for some time even though he was the owner of record and apparently the deeds that have followed have not been fully recorded as I understand it so in order to proceed at this point it has been suggested that the Committee recommend to the Board to rescind previous actions and to submit the disposition of the property to Dennis and Diane Traynor who were the original abutters that had requested the property and let them divvy it out to the other abutter after they get the rest of it straightened out if they so desire. I believe Mr. Tellier may have the background information on the parcels if anyone has any questions on it.

Steve Tellier, Chairman, Board of Assessors, stated I have spoken extensively with Mr. Traynor who has professed an interest from Day 1 in collaborating with his neighbor, Mr. Ledger. He wanted to be a good neighbor, however, as Carol

has indicated there has not been proper deeds recorded. Some of it is in probate and there are other issues revolving around ownership issues to the other abutter. It was our suggestion that if it is in the interest of this Board to dispose of this piece it could in fact be sold in the two sections that it is in now to Mr. Traynor and should he wish to work with his neighbor in the future he could sell it off and the City would be absolved of its responsibilities. Mr. Traynor is prepared to pay a small portion of money to the City for the break-up and the subdivision and that would include the subdivision plan that was facilitated with Highway and the Planning Department and any reasonable fee that would be given to the Solicitor's Office to do the deeding. I know that Mr. Traynor is fully prepared to pay the City for this piece of property, which has been subdivided into two small pieces.

Alderman Porter asked how much is it. That crescent piece really isn't good to anyone on the market right?

Mr. Tellier answered that is correct.

Alderman Porter asked so was a price discussed.

Mr. Tellier answered it was under \$3,000.

Alderman Porter asked is there something we can vote on to sell it for.

Mr. Tellier answered absolutely.

Alderman Porter asked but did anyone say the cost to subdivide would be...

Mr. Tellier interjected yes. The City said that it was unlikely to exceed \$3,000. Mr. Traynor then granted approval. He was firmly willing to pay that. He was willing to go along with his neighbor, that is why the City went through the trouble of subdividing. My understanding is that it is approximately \$1,500 or \$1,700 for Highway and there was a couple of hundred for the Planning Department for some postage and recording. It is a very nominal amount of money.

Alderman Porter moved to sell the property on West Haven Road (Tax Map 922, Lot 39-A) to Mr. Traynor at a cost of \$3,000.

Alderman Osborne asked Frank Thomas to come forward. When we discontinue an alleyway or anything it is usually 50/50 to the abutter on each side is that true?

Frank Thomas, Public Works Director, stated it depends on if it has public status and if the alley was discontinued. If it does then the abutting property owner has

underlying title to the center of the road. In this particular case it was basically a paper street that never had any public status.

Alderman Osborne asked so there wouldn't be any problem here of disposing of it to one party rather than worrying about the other party.

Mr. Thomas answered no because this parcel is like a triangular shape. There wouldn't be...our people at Highway have looked at this and we support it.

Chairman Thibault asked Steve on that map that you just showed if these people, in fact, acquire the other piece wouldn't that then become a buildable lot.

Mr. Tellier answered there would have to be a resubdivision and both neighbors would have to give up some portion of their lot. It is not something that is easily done. Mr. Traynor in several past conversations and correspondence has indicated his willingness to work with this neighbor. So if the City were willing to convey it I am sure he would work with his neighbor at a future date and some conveyance would be done at that point.

Alderman Roy stated thank you for refreshing everyone's memory on that. I do believe the parcel should be sold. The reason it is here in front of us is because it has been a collection area and a dumping area for leaves and the reason I am looking to remove it from City hands to private hands is so that it is maintained and cleaned up and becomes part of the neighborhood. Have any of those assurances been given by any of the purchasers – the Traynors or...

Mr. Tellier interjected Mr. Traynor has assured the City in past conversations and correspondence that he would like to gain title to that and take care of it in keeping with the rest of his site.

Alderman Porter stated if we try to get too much the guy will say hey the heck with it, keep it and then we are back in the same boat. I would like to repeat my motion that we sell it for \$3,000 to Mr. Traynor.

Alderman Roy stated with respect to the Alderman we have to rescind the prior action before we can take a new action.

Deputy City Clerk Johnson replied that would be part of the recommendation to the Board because it was the full Board that took the action. Can I just clarify a couple of things before we go forward? I know that the motion is to sell it for \$3,000. I just wanted to note that the initial sale, which is in the ordinance that was adopted by the Board had indicated a purchase and sales agreement to be executed. It was included in the approval of the subdivision, which I understand

has been done. Approval of consolidation of the property with the abutters lot and reimbursements of cost to the City by the purchasers at a cost not to exceed \$3,000, which is different than a full fledged straight \$3,000. So I just want to clarify that. I guess at this point the question would be once it is consolidated with the Traynor's lot whether or not it then presents a problem because it has to go through a subdivision process or something to get it consolidated with the other one.

Alderman Porter asked when a person has an adjoining piece of property that is a non-buildable lot by mechanics of the Zoning Board it actually consolidates it. They don't have to do a subdivision.

Deputy City Clerk Johnson responded the question that is being raised in the background here is that we now have two separate subdivided lots that we are looking to sell. One of which is to ultimately go to someone else. Once it is consolidated can it just be cut off because it is identified as a separate map or not? That is the question.

Mr. Tellier replied yes. There is a rudimentary \$10 consolidation fee and a recording process. Perhaps if you wanted to reduce the \$3,000 by a nominal amount if they incur any nominal expenses in those consolidation amounts...

Deputy City Clerk Johnson interjected that is not the issue at hand. The issue at hand is that we have a subdivided piece of property that has two lots on it. You have two abutters. You have one abutter taking both and now those two pieces get consolidated into his by order of the Board if that is the way we word it. How does Mr. Ledge get a cut off piece of something that has already been consolidated? That is the question.

Alderman Roy stated he would have to resubdivide.

Mr. Tellier stated you have to disassociate the consolidation portion of the motion to allow Mr. Traynor in the future to convey that other parcel to his abutter.

Alderman Porter stated my motion is simple. I think we are muddying the waters. My motion is simply to sell it to him. What he does with it in the future is his concern.

Deputy City Clerk Johnson asked so it would not contain a clause that it needs to be consolidated at this time.

Alderman Roy duly seconded the motion to sell the property to Dennis and Diane Traynor at a price of \$3,000.

Alderman Osborne asked what is the status of this again on the other property.

Mr. Tellier answered it gets pretty confusing. My understanding is that there was some relationship there to someone else and it is in probate at this time. Eventually he will gain fee simple ownership of the property but at present he does not. That is why a recommendation to the Board was made. If it is the will of this Board to dispose of this property and put the care of it under someone else the easiest thing is to just sell it outright to Mr. Traynor as Alderman Porter has suggested.

Deputy City Clerk Johnson stated as a single lot. As I understand it, that is the way it would have to go. Not as two separate lots.

Alderman Osborne asked would this be fair to Mr. Ledger at the end. Would this be fair to this particular abutter or would it be better to leave both halves and Mr. Traynor would get one half and then leave the other one open for now and if Mr. Ledger later on gets everything all straightened out then he has the opportunity of obtaining that piece of land and if he doesn't then Mr. Traynor can take it over.

Mr. Tellier answered I think if the price was reasonable it could be sold under the subdivided mechanism that you have.

Alderman Porter stated from a deed point of view if this parcel is very simply a parcel consisting of lots X and Y then it would be conveyed as one lot. Correct me if I am wrong, Tom.

Deputy City Clerk Johnson responded that is what the Solicitor is try to say.

Alderman Porter stated that is the whole point. If we sell it to them and it is conveyed as a lot consisting of and then they can take care of that then Mr. Traynor owns it and once he owns it if it is not a separate buildable lot and he has a lot contiguous to it he can't build on it and he can't...he could probably subdivide off as long as he retains enough under the new zoning for the original property. I think the very simple thing is to sell it to Mr. Traynor and let him do what he wants.

Alderman Osborne asked does Mr. Ledger know about all of this going on now or whoever has the deed to this other property or whatever.

Mr. Tellier answered I think Mr. Ledger is aware that he has a problem. He doesn't own the building. How can we convey something to him...



Alderman Osborne interjected I am not saying conveying. He doesn't own the building?

Mr. Tellier answered no he doesn't own the present site. It is in probate.

Deputy Solicitor Arnold stated I would say that the ownership status right now is unclear. He may, in fact, own it. The property in New Hampshire can be conveyed to ways. It can be conveyed by deed or it can be conveyed by will. If it is conveyed by will there may not be a deed in the Registry of Deeds. That doesn't mean that the person who it was conveyed to by will does not own the property. It is unclear right now but he may, in fact, and probably does own the property.

Chairman Thibault stated why don't we table this.

Alderman Osborne stated I think the fairest way to, the way I look at it is to do what I was saying in the first place. It is two lots.

Deputy Solicitor Arnold stated I do not believe it is formally subdivided yet and this is anecdotal that plans have been prepared showing a subdivision but I do not believe that the Planning Board has acted on a subdivision of that lot.

Alderman Osborne responded I still think it is fair to let each party have 50% of that property. That is the way I feel about it myself.

Alderman Roy asked Steve can I see the plan that you showed us again. I have a question for Frank Thomas regarding the subdivision plan. Originally with this crescent shape we were talking about going from the property line to the corner, which would not create frontage on a rear street from another property. Currently this house has frontage on Mayflower. We are now creating frontage, i.e. enough space to put in a driveway here. Why was this subdivided in that manner rather than just cutting it 50/50?

Mr. Tellier stated I guess to take care of the yard. Mr. Traynor's initial interest was to purchase that for exactly that reason, to have access to his backyard and to be able to get around because there is a garage back there and it is difficult. This would have allowed him an opportunity to get a wheelbarrow and get rid of leaves and debris and tree limbs and that type of things. It wasn't for a driveway, but for access. That is why Mr. Traynor initially professed an interest in purchasing the property and in trying to get along with his neighbor offered to work with him.

Alderman Roy stated I would just have concerns that if this is sold in that manner that it creates more of a problem for the abutters who now may have the potential of a driveway or some access to a different street from the rear of that yard.

Mr. Tellier responded those would be code enforcement issues and I think that could be handled through those departments.

Chairman Thibault called for a vote on the motion to recommend that the Board of Mayor and Aldermen rescind the previous action regarding property on West Haven Road, find it surplus to City needs and sell it to Dennis and Diane Traynor at a price of \$3,000. The motion carried with Alderman Osborne being duly recorded in opposition.

Chairman Thibault addressed Item 8 of the agenda:

Communication from Dick Dunfey, Executive Director of MHRA, notifying the Committee that Brooks Properties has decided not to go forward with the purchase of French Hall.

Alderman Porter asked what is the purpose of a presentation and is this something that regardless of what we do we are going to have to go through this again on the full Board.

Atty. William Craig stated first of all we don't have a presentation that I am aware of. I am just here to tell you what you have already read in the newspaper and received by mail. Whatever the reasons are I would prefer not to discuss them in public.

Alderman Porter moved to receive and file this communication. Alderman Osborne duly seconded the motion. Chairman Thibault called for a vote. There being none opposed, the motion carried.

Alderman Roy stated even though we are receiving and filing do we have the opportunity to ask questions.

Chairman Thibault responded I have no problem with that. If you want to ask a question I am sure they would be more than happy to answer.

Alderman Roy asked have contacts been made with any other prospective buyers.

Ken Edwards, MHRA, answered yes. We have asked CB Richard Ellis to put the property back on the market and there have been some preliminary conversations with Herrington Catalog about their interest in the property. They are hopefully

going to get back to us tomorrow or Wednesday. In addition to that, there have been a couple of other inquiries and in fact one showing. There seems to be some interest out there. We are hoping that we can be back shortly with another proposal.

Alderman Roy stated for clarification during our last discussion regarding Herrington there was discussion over distribution. I am hearing different reports about trucks and no trucks.

Alderman Porter stated point of order, Mr. Chairman. We received and filed this. I think that a lot of things we are trying to get into is exactly where we shouldn't be going. If there are questions that we needed answered...I mean we have taken a vote on it. Why are we continuing to discuss this?

Chairman Thibault responded well he wanted to ask a question and I have no problem with that.

Alderman Roy stated we received and filed a report on the purchase and sale, not the fact that we still own the property as the City of Manchester.

Alderman Porter stated I still think it is out of order to be discussing this. I am sure there are a number of things that they can be discussing that right now...if they have prepared a plan then they should present it to the Board. I am sorry but we received and filed and I would like to move on.

Alderman Roy replied can we ask the City Solicitor if questions are appropriate at this time.

Deputy Solicitor Arnold stated technically I think if there is no motion on the floor probably it is out of order. The Chairman certainly could allow questions and certainly Alderman Roy could speak to any of the individuals here separately and have his questions answered.

Alderman Roy responded I don't mean to talk out of order I just have a lot of clarification. We heard a lot of things regarding distribution and trucking and I just wanted to clear up some information or misinformation regarding Hackett Hill and the type of business that Herrington was going to look to do there.

Mr. Edwards replied one of the issues when we considered their proposal was whether that use would require a variance. Once we knew that the Brooks deal was not going to go forward we met with the Building Commissioner to discuss that issue – Bob MacKenzie, myself and Jane Hills and concluded that based on the uses proposed by Herrington that a variance would be required. I think issues

in and around traffic and so forth would be considered by the Zoning Board of Adjustment if it ever gets to that point.

Chairman Thibault asked so whenever you guys get a proposal from some buyer who wants to look at this you are going to come back to this Committee and give us that information.

Mr. Edwards answered absolutely. We would have to go to the MHRA board first with a proposal and get their recommendation and bring that forward to this Committee.

Chairman Thibault addressed Item 9 of the agenda:

Communication from Greg Grace, Vice President of PMC Wire requesting access to their plant from Valley Street, which would require crossing the former Portsmouth Branch rail corridor.

Deputy City Clerk Johnson stated we had noted that if the Committee desired it would be appropriate to refer this item to the discussions ongoing relative to a draft policy and procedure for private sector use of the former Portsmouth Branch railroad right-of way.

Chairman Thibault asked where are we with the policy. Didn't we have some action on this last time?

Alderman Osborne stated this is something new.

Chairman Thibault responded it is still a railroad thing.

Deputy City Clerk Johnson stated this is a new request dealing with the same issue and there have been some staff discussions regarding policy. At the last meeting of Lands and Buildings there was an indication that they would come back at the next meeting. This isn't your regular time to meet so I don't think they are fully prepared but Mr. Arnold could address where they are at at this time if you would like.

Deputy Solicitor Arnold stated staff has met consisting of Chuck DiPrima of Parks & Recreation, myself and Mr. Beauchesne of the Planning Department. My reading of the last meeting is that the Committee asked us to come up with two additional points. One being a process for applying for a right-of-way and the second was to come up with a method for charging for that permit. We have met and discussed those and I think we have an agreement. What we need to do at this point is kind of put it in writing and deal with details, which I have involved the

Clerk's Office in to make sure that the application process would go smoothly. I would anticipate that we would be back at your next meeting with those two proposals in addition to the policy that we have already proposed to the Committee.

Deputy City Clerk Johnson stated I would suggest that you table this item with the others that are on the table for now.

Alderman Osborne moved to table this item pending receipt of a policy.  
Alderman Roy duly seconded the motion.

Alderman Osborne stated on this particular request here is there any kind of plan for this. They want to come off of Valley Street. Is there anything of that nature?

David Beauchesne, Planning Department, stated I do have a small map showing the property site. It is behind the...well I won't get into the details but...

Alderman Osborne interjected I know where it is exactly.

Mr. Beauchesne stated there is no plan yet. We discouraged them from producing a plan at this point. When they continued to show an interest over the last year about gaining access over the railway to Valley Street rather than from the street behind their property, which is a little more difficult for the kinds of trucks that they have and some other issues, we finally said listen get your foot in the door with the Lands and Buildings Committee, write a letter to the Chair. I suspect the Chair knows about that part of it. That way you put your...they know you are interested and you know that they are dealing with a bunch of rail right-of-way issues at the same time and that they want to do the big picture thing first before being picked off one by one by individual cases. They have been very diligent about it and I tried to put our best foot forward on how we are dealing with that.

Alderman Osborne stated I think we all know it is kind of hard to get egress and so on off of Valley Street. That is a tough one, especially trucks that size coming in and out on Valley Street at that particular location is not going to be easy.

Mr. Beauchesne responded I haven't studied it closely enough to say that they can or cannot. I suspect that they have been already going on the street behind it. I am having a mental blank on the street behind it – it is Hayward. They have been using that street so far and they wish that they weren't and that is the point you are making.

Chairman Thibault asked that is going to have to go to Planning right. Once they submit a plan it is going to have to go to Planning won't it?

Mr. Beauchesne answered right. We haven't really analyzed it because we don't know how much of the right-of-way they are interested in. Is it the whole thing? Is it half of it? Is it a quarter of it? They have expressed some interest in kind of making their own walking trail section of it going out to Valley Street. Is this kind of a premature effort and that sort of thing? So they need to lay it out in more detail.

Alderman Osborne stated and eventually they might not even own it at all.

Chairman Thibault called for a motion to table the item pending receipt of a policy. There being none opposed, the motion carried.

Chairman Thibault addressed Item 10 of the agenda:

Communication from Louis Nixon, on behalf of Carol Gosselin and Bonita Kershaw, seeking an easement for access across the former NH Central Railroad bed to 534 and 526 Douglas Street.

Alderman Porter asked are we all set with this Mr. Arnold.

Deputy Solicitor Arnold answered not quite. I have been in touch with the Highway Department. Mr. Miccio has prepared a plan, which I got today. There was some question...apparently since they need this property for access they are looking for an easement. That is ordinarily not something we would consider on this railroad right-of-way. As you know in the past the policy has only been for revocable licenses, however, it would make it tough to sell this property without an easement giving you access since all of the other access I guess is by boat. I have been in touch with the Highway Department; however, as you know we got this land from the state with certain restrictions. One of which is before we sold any of this land we would have to have the state approve the sale. Consequently, once I have this plan we are probably going to have to go to the state with it and ask them if they approve of the granting of the easement because that is the sale of an interest of the property. Also, there is some concern about granting an easement and keeping some language in there that will allow the areas involved to be modified when Parks & Recreation does come up with a design for a recreational trail. So we have some issues. We have started working on it. I know that property owners here are anxious. I know that at least one was trying to sell. We are sensitive to that but we have to work out the details so to speak and we will continue to do that on as expedient a basis as we can.

Alderman Porter asked do you have a timeframe.

Deputy Solicitor Arnold answered the work that the City staff has to do we could probably get done within a couple of weeks. What I can't speak for is the state.

Alderman Porter replied I understand that but if this is a matter that is contingent upon being able to sell his property and there are others in the area that are in the same boat I think to be expedient would be fair to the property owner.

Deputy Solicitor Arnold responded as I said we are sensitive to that.

Chairman Thibault stated there are two houses that are on the other side of the track and they have had an easement for over 100 years. Those houses are over 100 years old. They had to have some kind of an easement to put that there.

Deputy Solicitor Arnold responded that is not necessarily true, Alderman. They have obviously been using the railroad bed for access to their property. That does not mean they have an easement. The problem here is it appears from the record that they do not have an easement and no easement was granted.

Chairman Thibault replied on the road I can understand but for their water line and that is the only thing they are really looking for.

Deputy Solicitor Arnold responded my understanding is that they are not only looking for the water line. They are looking for access for their cars and other things across the property. The water line, again, I understand and I obviously haven't done the title search myself but I don't believe they could find an easement for it. That doesn't mean they haven't been using the property. It just means that there is no easement of record.

Alderman Osborne moved to table. Alderman Porter duly seconded the motion. Chairman Thibault called for a vote. The motion carried with Alderman Thibault being duly recorded in opposition.

### **TABLED ITEMS**

11. Communication from Attorney Michael Kasten, on behalf of Steve and Anna Saco, proposing to enter into a Boundary Line Agreement with the City for property located at West Shore Avenue and Bodwell Road abutting Crystal Lake.

*(Note: Tabled 4/18/2005 pending review by Alderman DeVries.)*

This item remained on the table.

12. Discussion of area for dog park.

*(Note: Tabled 4/18/2005 pending submission of formal layout for the dog park and lease agreement.)*

This item remained on the table.

13. Communication from Robert MacKenzie, Director of Planning, relative to the Blacksmith Shop on Second Street.  
*(Note: Tabled 11/15/2004 pending further review by the CIP Committee.)*

This item remained on the table.

14. Land between Valley and Grove Streets previously owned by B&M Railroad.  
*(Tabled 5/26/2004 pending standard policy for purchasing railroad land to be submitted by Planning.)*  
*Board of Assessors – value range \$57,448*  
*Planning – do not dispose, license might be considered with conditions*  
*Parks & Recreation – do not dispose, temporary use license or agreement subject to conditions to be considered*

This item remained on the table.

15. Land at Belmont/Valley/Grove Streets formerly owned by B&M Railroad.  
*(Tabled 7/27/2004 pending standard policy for purchasing railroad land to be submitted by Planning.)*  
*Board of Assessors – value range \$26,484*  
*Planning – recommend license for usage subject to conditions*  
*Tax Collector – no interest, not tax-deeded parcel*

This item remained on the table.

16. Land at Maple/Somerville Streets formerly owned by B&M Railroad.  
*(Tabled 7/27/2004 pending standard policy for purchasing railroad land to be submitted by Planning.)*  
*Board of Assessors – value range \$21,084*  
*Planning/Parks – do not dispose, recommend license for usage subject to condition.*

This item remained on the table.

There being no further business, on motion of Alderman Porter duly seconded by Alderman Roy it was voted to adjourn.



05/02/2005 Lands & Buildings

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A True Record. Attest.

Clerk of Committee